

Plaintiffs' Exhibit 14  
(Part 1 of 2)

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE

NO. 04-175 E

JONATHAN A. BORDEN and  
AMY P. BORDEN,  
Plaintiffs

Vs.

AMICA MUTUAL INSURANCE  
COMPANY,  
Defendant

COPY

DEPOSITION of **LISA ST. ONGE**, in the  
above-entitled cause, taken on behalf of the  
Plaintiffs, pursuant to Notice, before Kristen M.  
Bengtson, RPR, Notary Public in and for the State  
of Rhode Island, at the Law Office of James V.  
Murray, 10 Amica Center Boulevard, Lincoln, Rhode  
Island, on Tuesday, July 26, 2005, at 1:10 p.m.

APPEARANCES:

MacDonald, Illig, Jones & Britton, LLP  
BY: CRAIG MURPHEY, ESQUIRE  
Counsel for the Plaintiffs

DiBella, Geer, McAllister & Best, P.C.  
BY: PAUL K. GEER, ESQUIRE  
Counsel for the Defendant

REPORTING ASSOCIATES  
Shorthand Reporters  
10 Dorrance Street  
Providence, RI 02903  
(401) 351-1660

PEMGAD 800-631-6888

PLAINTIFF'S  
EXHIBIT

14

I-N-D-E-X

**WITNESS**

PAGE

LISA ST. ONGE

Examination By Mr. Murphey

3

LISA ST. ONGE,

A witness called on behalf of the Plaintiffs,  
having been first duly sworn,  
deposes and says as follows:

**DIRECT EXAMINATION:**

Q. (By Mr. Murphey) Lisa, we met very briefly before the deposition, but allow me to introduce myself again. My name is Craig Murphey, and I'm an attorney from Erie, Pennsylvania. I represent Dr. and Mrs. Jonathan Borden in a lawsuit against Amica Mutual arising from the handling of a fire loss claim, and I know that you know that that's why I'm here. Have you ever given deposition testimony before?

A. I have not.

Q. Your attorney, the attorney for Amica, Mr. Geer, is here with you, and I assume that he gave you some ground rules, but allow me to repeat them for the record. First of all, as you know, you're under oath, and I know you're going to give the best and most honest answers that you can to my questions, but we don't, neither Paul nor I, want you to guess or speculate.

So if you don't know the answer to a

1 question or perhaps you think you may have known  
2 it at one time but you don't remember, please  
3 tell us that. I don't know or I don't remember  
4 is a perfectly acceptable answer. Okay?

5 A. Okay.

6 Q. We also need you to answer verbally rather than  
7 with a nod of the head or a shake of the head.  
8 Because the court reporter is here taking down  
9 what we say, it's going to be difficult to  
10 interpret later with uh-huhs or other  
11 unintelligible sounds, so either a yes or no  
12 rather than a nod of the head or an  
13 unintelligible sound. I'd appreciate that.  
14 Okay?

15 A. Okay.

16 Q. Also, if at any time you -- we'll probably be  
17 here for a couple hours today, so if at any time  
18 you want to take a break, if you want to talk to  
19 Mr. Geer outside of my presence, if you need to  
20 get a drink or something, please let me know and  
21 I'll be happy to accommodate you. Okay?

22 A. Thank you.

23 Q. Also, if I ask complicated question or I misstate  
24 something, or you think I've misstated something  
25 or I've asked an awkward question, which I

1           unfortunately do on a regular basis, please let  
2           me know that you don't understand the question  
3           and that you want it to be rephrased, and I'll be  
4           happy to try to accommodate you. All right?

5           A. All right.

6           Q. Just for the record, could you please state your  
7           full name and your address, please.

8           A. Yes. It's Lisa Katherine St. Onge. My address  
9           is 52 Nora Way in Attleboro, Massachusetts.

10          Q. What's your date of birth?

11          A. 11/12/70.

12          Q. Is St. Onge your married name?

13          A. Correct.

14          Q. What's your maiden name?

15          A. Hiney, H-I-N-E-Y.

16          Q. You are employed by Amica Mutual Insurance  
17          Company?

18          A. Correct.

19          Q. How long have you been employed by Amica?

20          A. Since 1992.

21          Q. What's your office address?

22          A. 100 Amica Way in Lincoln, Rhode Island.

23          Q. What's your current job title?

24          A. Assistant property loss manager.

25          Q. Where did you go to college?

1 policies by internet, phone, mail, et cetera.

2 Q. So you don't have agents?

3 A. No.

4 Q. During your career with Amica, did they  
5 previously have agents and change to being a  
6 direct writer?

7 A. Not that I'm aware.

8 Q. Okay. At the time that the Borden loss happened,  
9 you said that you were an assistant or, I'm  
10 sorry, you were an examiner that handled property  
11 claims. Can you just generally tell me what your  
12 duties were at that time in that job.

13 A. My duties as an examiner are to set reserves and  
14 to oversee larger losses, as well as provide  
15 authority and coverage decisions.

16 Q. What would trigger a property examiner's  
17 involvement in a case as of -- my questions are  
18 going to be focused on the spring of 2002 when  
19 this loss happened.

20 A. Sure. There would be two triggers: One would be  
21 a dollar value of a particular claim, another  
22 trigger would be a coverage question, and  
23 actually a third trigger would be a complaint  
24 filed.

25 Q. What was the dollar value at the time in the

1 spring of 2002?

2 A. I believe \$20,000, but I'm not 100 percent sure.

3 Q. So would that mean that the branch adjusters  
4 would not have any authority over -- for a claim  
5 that had a value of greater than \$20,000?

6 A. Not necessarily.

7 Q. It would simply trigger your involvement in the  
8 case?

9 A. Correct.

10 Q. As a practical matter, how would you get notified  
11 that there's now a claim that should be converted  
12 to a home office claim or however you would  
13 describe it?

14 A. There can be a couple of different ways.  
15 Sometimes an e-mail, sometimes a fax, but most  
16 common is just a paper file of the file materials  
17 being forwarded via regular mail.

18 Q. From the adjuster?

19 A. From the branch.

20 Q. From the branch office.

21 A. It could be the adjuster, could be the  
22 supervisor, could be the manager.

23 Q. Do you recall why you became involved in the  
24 Borden claim?

25 A. Because of the dollar trigger.



1 coverage for the dwelling. But again, I'd want  
2 to check the policy to be accurate.

3 Q. I understand that, and I understand if I have a  
4 specific question that we would need to do that,  
5 but I'm just asking generally what endorsements  
6 are embedded within the Platinum Choice Policy?  
7 Do you have another word for it, do you call it  
8 an 0500 policy or something like that?

9 A. Generally the Platinum.

10 Q. That's what you call it?

11 A. (The deponent nodded.)

12 Q. Okay. Between the Platinum Policy and what you  
13 referred to as the standard homeowner's policy,  
14 what endorsements generally speaking would be  
15 embedded within the Platinum Policy that are  
16 optional with regard to the standard homeowner's  
17 policy?

18 A. One is the increased limits endorsement.

19 Q. What does that mean?

20 A. What that means is if our policyholder had a  
21 loss, a total loss fire and with the damage was  
22 \$200,000, but they only had coverage to \$150,000,  
23 the policy would automatically increase to that  
24 amount as long as they had provided the necessary  
25 information, et cetera.

1 Q. Do you have that available to you in your office  
2 somewhere?

3 A. I might.

4 Q. How long ago did you get that?

5 A. It would have been a while ago.

6 Q. Before the Borden case?

7 A. Correct.

8 Q. Do you know whether Amica has any other  
9 information about Mr. Schumann other than his fee  
10 structure and the resume that you have?

11 A. I don't know.

12 Q. Have you ever discussed the Borden claim directly  
13 with Mr. Schumann?

14 A. I might have.

15 Q. You don't remember?

16 A. I don't remember a direct conversation with John  
17 regarding this file.

18 Q. So you don't know? You don't remember one?

19 A. Correct. It's been awhile.

20 Q. Okay. I couldn't tell from your answer.

21 A. Sure. I'm sorry.

22 Q. You originally said that you don't know, and then  
23 you said that you don't remember.

24 A. I apologize.

25 Q. That's fine.

1 A. I don't remember.

2 Q. If you had a conversation with Mr. Schumann on  
3 this file, would it be reflected in the claim  
4 file?

5 A. Most likely, whether it be in his report or in  
6 some sort of an e-mail that I would have  
7 submitted to Dave.

8 Q. So it's possible that you did not talk to  
9 Mr. Schumann?

10 A. Again, I just do not recall.

11 Q. You don't recall, all right. Did you ever talk  
12 to Mr. Schumann about the Borden claim after it  
13 was settled? For instance, maybe discuss, you  
14 know, the problems that he had with the claim or  
15 kind of postmortem the claim at all?

16 A. Sure. No, not that I recall.

17 Q. Do you know if Amica expressed any  
18 dissatisfaction to Mr. Schumann regarding his  
19 handling of this claim?

20 A. There was some discussion in terms of the  
21 contents evaluation, in terms of his not doing a  
22 thorough review of the pricing which there was  
23 some discussion with John about.

24 Q. When was that discussion? Again, relative to --  
25 I don't need specific dates, but relative to the

1 handling of the claim.

2 A. I believe when we received a copy of his  
3 recommendation and his report regarding the  
4 contents of inventory.

5 Q. Was the discussion between you and him or your  
6 supervisor or who?

7 A. I do know that Dave did speak with John.

8 Q. Dave Bennett?

9 A. Correct. I'm sorry. And actually, I -- I'm not  
10 sure. I don't want to speculate.

11 Q. Okay. You may have talked to him about it, I  
12 take it, but you don't remember specifics?

13 A. Again, I don't want to speculate.

14 Q. Was it you that were critical of the quality of  
15 his work on the contents?

16 A. Both Dave and I were hoping for additional  
17 details on the contents of inventory.

18 Q. So your recollection is that both of you reached  
19 the conclusion that the work needed to be more  
20 detailed?

21 A. Correct.

22 Q. And you talked to John about that?

23 A. Again, I'm not sure.

24 Q. I'm sorry. When I said you, I meant Amica. So  
25 you're confident that at least Dave talked to him

1 about it?

2 A. I believe so.

3 Q. Did John respond in any way, did he defend  
4 himself or say he thought he did a good job?

5 A. Again, I wasn't involved in that discussion.

6 Q. So you believe Dave had that discussion with  
7 John?

8 A. I believe so.

9 Q. Do you know whether that discussion's documented  
10 anywhere with regard?

11 A. I don't.

12 Q. Was there any other discussion with John that you  
13 know of regarding his handling of the Borden  
14 claim?

15 A. No.

16 MR. GEER: You're talking about a  
17 discussion where they were critical of his  
18 effort?

19 MR. MURPHEY: That's right. I think she  
20 understood that. Thanks.

21 Q. You said that Amica continues to use  
22 Mr. Schumann; is that correct?

23 A. Correct.

24 Q. Do you know whether Amica has asked Mr. Schumann  
25 to change the way in which he approaches losses

1 as a result of the Borden claim?

2 A. Not that I'm aware.

3 Q. Do you know if the frequency of assignments to  
4 Mr. Schumann has changed in any way following the  
5 Borden claim?

6 A. As a result of the Borden claim?

7 Q. Well, I'll ask a two-part question. First,  
8 whether the frequency of assignments to him has  
9 changed at all since the Borden claim.

10 A. The assignments are based on the losses that come  
11 in. Again, fire losses are thankfully not that  
12 common.

13 Q. Sure.

14 A. So in terms of is the volume exactly the same, I  
15 wouldn't be able to say.

16 Q. That really wasn't my question. The point of my  
17 question is whether the volume of claims that he  
18 would be expected to be assigned, whether that  
19 has changed at all since the Borden claim?

20 A. Not that I'm aware. We use different adjusters  
21 for large losses, and I don't believe the  
22 distribution of assignments is greatly different  
23 than what it was prior to the Borden loss.

24 Q. So I take it I know the answer to the next  
25 question and that is whether the frequency of

1 assignments to Mr. Schumann has changed because  
2 of the Borden loss?

3 A. That has not occurred.

4 Q. I take it your answer is no?

5 A. Correct.

6 Q. Has the protocol or the supervision of  
7 Mr. Schumann or any of the other independent  
8 adjusters, has that changed at all since the  
9 Borden claim?

10 A. No.

11 Q. If you could look back, put that stack of papers  
12 back together, and documents 1051, 1052 --

13 THE DEPONENT: Actually, would you mind  
14 if we just take a short break?

15 MR. MURPHEY: Absolutely, that's fine.

16 (Break takes place at 2:00 p.m.)

17 (Back on the record at 2:05 p.m.)

18 Q. Lisa, you indicated during the break that you had  
19 an answer that you wanted to clarify?

20 A. Correct. In giving some additional thought, when  
21 we were talking about a prior complaint, I don't  
22 remember if the complaint was regarding John  
23 Schumann as opposed to the amount that was paid,  
24 so for that, I didn't want to mislead you that it  
25 was one or the other. I'm just not comfortable

1 A. The reserves are set by the home office  
2 examiners.

3 Q. Why is it that Amica doesn't want suggested  
4 reserves from an independent?

5 A. Because we're confident that we can set the  
6 reserves appropriately.

7 Q. But you don't want their input with regard to  
8 reserves?

9 A. They provide input in terms of their reports,  
10 their description, what they see and hear, but  
11 it's up to the examiner to make the determination  
12 of the reserve. We certainly obtain all  
13 available information to make that assessment.

14 Q. Including their estimates --

15 A. Correct.

16 Q. -- of the loss?

17 A. Correct.

18 Q. Are the reserves usually set before you receive  
19 their estimates?

20 A. It's an ongoing process.

21 Q. How quickly do you set a reserve from the time  
22 that the fire loss is reported?

23 A. It varies. We generally set a reserve once we  
24 have some basic preliminary information, based on  
25 the worst case, the information that we have. As



1 information is provided, we might re-examine that  
2 reserve to see if it needs to be changed.

3 Q. Is there an internal protocol for how quickly a  
4 reserve is supposed to be set, recognizing it can  
5 be changed over time?

6 A. Until we have enough information to put a number  
7 on it. In other words, you need some information  
8 in order to be able to set an appropriate  
9 reserve.

10 Q. Well, I know some companies will -- you can't  
11 even open a claim file without putting a reserve,  
12 and then it can be adjusted over time.

13 A. Claim file can be opened prior to a reserve being  
14 set.

15 Q. In Amica's case?

16 A. Correct. The branch opens the claim file. We  
17 handle the reserve here in the home office.

18 Q. At any given time, I take it from your answer  
19 before that, the reserve is to be the worst case  
20 scenario, that is, the most that you believe that  
21 you'll ever have to pay on a claim; is that what  
22 your reserving protocol is?

23 A. Exactly.

24 Q. It is not what you estimate you are going to pay  
25 on a claim?

1 A. No, they're not necessarily the same.

2 Q. I understand that, and I know that companies have  
3 different reserving philosophies. I take it from  
4 your answer, and you correct me if I'm wrong,  
5 that Amica's reserving philosophy is a worst case  
6 scenario, that is, the most that you believe  
7 you'll ever have to pay on a claim, that's the  
8 amount that the reserve is set at?

9 A. Within reason. All of our claims aren't reserved  
10 at the policy limits.

11 Q. But again, the reserve is set as a worst case  
12 scenario, again, exercising your judgment, of  
13 course?

14 A. Exactly.

15 Q. But as a worst case scenario, rather than what  
16 you believe that you will ultimately pay on a  
17 claim?

18 A. Correct.

19 Q. You understand those are two different  
20 philosophies?

21 A. Yes.

22 Q. And Amica's philosophy is a worst case scenario  
23 philosophy?

24 A. Correct.

25 Q. Is that impacted by state law at all? For

1 example, is your reserving philosophy any  
2 different for a Pennsylvania case than it would  
3 be for a New York case?

4 A. No, it is not.

5 Q. Now, I have a memo that is document 1121. Do you  
6 have that in front of you? It is from Peter Reid  
7 who you identified before, and this is entitled a  
8 First Party Property Loss Handling Guide. Do you  
9 recognize this memo?

10 A. I do.

11 Q. It describes a guide which is attached to it. Is  
12 that the guide which starts at AM1128 and goes  
13 through AM1146?

14 A. I believe so.

15 Q. Mr. Reid's memorandum says that the guide that we  
16 just talked about "details our service  
17 expectations on our most serious homeowner  
18 claims. We record around 100 losses every year  
19 in this category from around the country." To  
20 your knowledge, would the Borden loss fall within  
21 the categories of "our most serious homeowner  
22 claims"?

23 A. Yes.

24 Q. So would you agree with me that this document  
25 entitled First Party Property Loss Handling

1 Expectations would apply to the Borden claim?

2 A. The First Party Property Loss Handling Guide  
3 would apply, yes.

4 Q. Okay. I see it is dated August 1999, so that  
5 would have been a couple of years before the  
6 Borden claim?

7 A. Correct.

8 Q. Correct? Is this still a guideline that is used  
9 by Amica with regard to its most serious  
10 homeowner's claims?

11 A. I believe so.

12 Q. I'll ask you the same questions I did before  
13 about the Independent Adjuster Guidelines. Was  
14 this disseminated to your independent adjusters,  
15 including Mr. Schumann?

16 A. I know that a copy was given to Mr. Schumann.

17 Q. Do you know that a copy was given to Mr. Schumann  
18 before the Borden claim?

19 A. Yes.

20 Q. Then I take it the branch claims managers would  
21 also have a copy of this?

22 A. Correct.

23 Q. Now, there is another document marked 1124. I'm  
24 sorry. Yeah, 1124 and 1125, and it's entitled  
25 Serious First Party Loss Checklist. Is this part

1 Q. Further down, about the third paragraph from the  
2 bottom, it says, "Supervisors should visit the  
3 loss site to meet insureds during the first week,  
4 whenever possible." Was the supervisor in this  
5 case Dave Bennett?

6 A. Correct.

7 Q. On page 1134, about four paragraphs from the  
8 bottom, in the paragraph beginning with the  
9 words, Agreement on scope of loss, do you see  
10 that paragraph?

11 A. Yes.

12 Q. The last sentence says, "Our contractor becomes a  
13 construction consultant and should be paid for  
14 time spent working the numbers." What does that  
15 mean? Who's your contractor?

16 A. If we brought in a direct repair contractor or  
17 hired a consultant, a contractor to write up  
18 their own estimate, they should be paid for that  
19 as opposed to a situation where we make a  
20 recommendation to an insured of a contractor,  
21 that insured decides to use that contractor. We  
22 should clarify the difference between someone who  
23 is bidding for a job versus someone who's coming  
24 in at our request to complete a complete detailed  
25 estimate.

1 Q. So sometimes you hire contractors to provide you  
2 with an estimate in addition to the adjuster?

3 A. Yes.

4 Q. Not in every case but in some cases?

5 A. Correct.

6 Q. What cases would you hire a consultant contractor  
7 rather than simply rely on the estimate prepared  
8 by your general adjuster?

9 A. If we have a copy of an estimate from our  
10 insured's contractor that's significantly  
11 different than our adjuster's scope and we feel  
12 that it would be warranted to have a construction  
13 expert go out and assist us with that process,  
14 there would be that time.

15 Q. And you know from reviewing the Borden claim that  
16 that eventually happened in the Borden case?

17 A. We never received an estimate from Dr. and Mrs.  
18 Borden.

19 Q. But you did retain your own contractor to provide  
20 you an estimate?

21 A. Correct.

22 Q. So that's not unusual then, that's something you  
23 would do on a regular basis?

24 A. To retain a contractor?

25 Q. Yes.

1 A. I wouldn't say we do it on a regular basis.

2 Q. It was typical enough to be included in your  
3 guidelines?

4 A. Sure, but I don't know what the current  
5 environment was back in 1999.

6 Q. Okay. The next two sentences on page 1134 says,  
7 "If an impasse develops, explain Appraisal to the  
8 insured and document by letter offering the  
9 insured the choice to initiate." And then the  
10 next paragraph says, "We will file for Appraisal  
11 if there's no resolution and insured declines to  
12 request Appraisal." So at that time anyway the  
13 guidelines suggested that the insured should be  
14 asked to initiate appraisal before the company  
15 will initiate the appraisal system?

16 A. That is what's stated here.

17 Q. Is that your practical experience?

18 A. I have seen it done that way, but I've also seen  
19 it the way it was done in the Borden file.

20 Q. That is where the company initiates the  
21 appraisal?

22 A. Correct.

23 Q. Section H, page 1138, that refers to Cleaning  
24 Companies. Does that section refer to all  
25 different types of cleaners, people who clean

1 contents, people who clean clothes?

2 A. It appears so.

3 Q. The middle sentence of the third paragraph says,  
4 "You need to know your area cleaner  
5 capabilities." Do you have any idea what the  
6 Pittsburgh branch knew about cleaning services in  
7 the Erie area?

8 A. I don't.

9 Q. You don't know one way or the other?

10 A. No.

11 Q. On page 1139, there's a section referring to  
12 Payments, and in the second paragraph it refers  
13 to another document called the "PLD Basics" memo.  
14 Do you know what that is?

15 A. I believe that's what's Bates stamped AM1147 and  
16 AM1148.

17 Q. So I see that that has the same title. You don't  
18 know of any other PLD Basics memo?

19 A. Not that I can think of.

20 Q. Reading the second paragraph of the Payments  
21 subsection on page 1139, it states, "As outlined  
22 in 'PLD BASICS' memo, pay what we know we owe.  
23 If estimator and insured contractor have not  
24 reached a/p," what does that mean?

25 A. Agreed payment would be my guess.



1 A. You had mentioned a log that indicates every  
2 reserve --

3 Q. Right.

4 A. -- that's ever been, occurred. In other words, I  
5 assumed your question to be interpreted one piece  
6 of paper that lists every single reserve.

7 Q. Yes, or some access to some information that  
8 shows that.

9 A. There is some information that shows what the  
10 reserves were.

11 Q. All right. So at any given time we can  
12 determine what your reserve was at a certain  
13 time?

14 A. Yes.

15 Q. With regard to this claim?

16 A. Yes.

17 Q. And you testified that it did change over time?

18 A. Yes.

19 Q. On page 432, there is an e-mail that indicates  
20 that, "He guesses Coverage A damages of \$250,000  
21 and Coverage C of \$100,000." Is that the e-mail  
22 that you referred to that gave you some  
23 information regarding setting a reserve?

24 A. Yes.

25 Q. Other than that information and your own claims

1 handling experience, was there any particular  
2 information that you used to set a reserve in  
3 this case?

4 A. Not other than my claims.

5 MR. GEER: Are you talking about at this  
6 point in time?

7 MR. MURPHEY: Yes, at this point in  
8 time, at this point in time.

9 A. Other than my claims experience and this  
10 information, my recommendations on the reserve  
11 were then passed along.

12 Q. Then were your recommendations regarding  
13 reserves?

14 A. Correct. As you can see from the numbers, the  
15 value would exceed my authority as the property  
16 examiner.

17 Q. The numbers that you gave us before?

18 A. Correct.

19 Q. So Mr. Divoll then had to approve the setting of  
20 a reserve that was greater than your authority?

21 A. Correct.

22 Q. What information, following up on what Mr. Geer  
23 said, what information did you receive later in  
24 the claim file that caused you to change your  
25 reserve?

1 A. We're always looking at what new information that  
2 comes in and reevaluating the reserve at that  
3 time.

4 Q. So what information in this case caused you to  
5 reevaluate your reserve?

6 A. It's an ongoing process.

7 Q. Okay.

8 A. I don't know if I can point to any specific items  
9 within the file, but as new information is  
10 brought in, it's then -- my reserve is reviewed  
11 in the context of any new information that's  
12 obtained to see if that worst case scenario has  
13 changed from what was initially projected.

14 Q. Ultimately you paid more than what Mr. Schumann  
15 estimated; is that correct?

16 A. Yes.

17 Q. Obviously then your reserve was changed at least  
18 before the final payment was made --

19 A. Yes.

20 Q. -- right, because it's greater than this amount?  
21 Was it changed at any time between your initial  
22 reserve and the time that it was changed to -- or  
23 at the time that you made the final payment?

24 A. Might have been. I can't recall.

25 Q. Does the company discourage reserving in steps?

1 submitted this information.

2 Q. My question is, did he send you copies of the  
3 letters or did he summarize them for you in some  
4 fashion?

5 A. I did receive a copy of this, AM455 and 456.

6 Q. Let me ask you a general question regarding the  
7 letters, because there's a number of them.  
8 There's letters from Mr. Schumann to Mr. Bennett.  
9 He was reporting Mr. Bennett.

10 A. Yes.

11 Q. Were you provided routinely copies of the letters  
12 that Mr. Schumann sent to Mr. Bennett?

13 A. Yes, when Dave Bennett submitted that information  
14 to me.

15 Q. He wouldn't just summarize them in a letter, he'd  
16 actually send you copies of the letter?

17 A. Correct.

18 Q. Is that routine?

19 A. Yes.

20 Q. So that wasn't special for this case --

21 A. No.

22 Q. -- because of any problems or anything? Now,  
23 there is a section called Customer Overview and  
24 Reaction on page 456, if you could just read that  
25 paragraph to yourself. Okay. You'll agree with

1 me that that documents that the Borden family and  
2 Mrs. Borden in particular were having an  
3 emotional reaction or response to the fire; is  
4 that correct?

5 A. It appears so.

6 Q. Is that something unusual in your experience in  
7 handling fire losses?

8 A. Fire losses can be very traumatic to our  
9 policyholders.

10 Q. That's something that the company recognizes an  
11 incorporates, and in their guidelines, in fact,  
12 there's reference to that; is that correct?

13 A. Yes.

14 Q. So that's not something unusual?

15 A. That our insureds have an emotional reaction to  
16 the fire?

17 Q. Yes.

18 A. No, that's not unusual.

19 Q. Is it unusual that the emotional reaction will be  
20 such that it's difficult for them to make  
21 decisions especially in a time closely proximate  
22 to the fire?

23 A. What time frame are you referring to?

24 Q. In the first week after the fire.

25 A. It varies. Everyone is different in terms of

1 the alternative living expenses and then your  
2 speculating regarding Mr. Jones's estimate, was  
3 there any other aspect of this claim that was  
4 handled in a special or different way as a result  
5 of the reports from the Borden family about  
6 medical needs of their children?

7 A. Not that I can think of.

8 Q. Another statement Mr. Schumann made in this memo  
9 was that Dr. Borden's brother is an attorney and  
10 works for the Hartford Insurance Company in  
11 Hartford. Did that affect your handling of the  
12 claim in any way?

13 A. No.

14 Q. From your observation of the manner in which  
15 others handled the claim, did that affect that at  
16 all?

17 A. Not that I could see.

18 Q. Now, on page 458, you'll see under Coverage A,  
19 Recommendations, Mr. Schumann was recommending  
20 that a check in the amount of \$295,000 and some  
21 dollars be issued. Now, that means that  
22 Mr. Schumann had completed his estimate; is that  
23 right?

24 A. Yes.

25 Q. Would that ordinarily end Mr. Schumann's

1 participation in the claim or at least the  
2 dwelling part of the claim?

3 A. Our ultimate goal is to receive or to speak with  
4 the insureds' chosen contractor so that we can  
5 work to reach an agreed figure. So there are  
6 times when Mr. Schumann completes an estimate and  
7 we're notified that the insured has chosen a  
8 contractor, and Mr. Schumann will go back and  
9 talk with the contractor to work to reach an  
10 agreed figure.

11 Q. And he'll do that after preparing his own  
12 estimate?

13 A. If the contractor was not available at the time  
14 that he was preparing his estimate.

15 Q. Let's say they are available. Just help me out  
16 here. Let's say that the day after the fire the  
17 insured tells you that I want to use Mr. Smith to  
18 be my contractor to rebuild my home. In that  
19 case, does your adjuster, whether it's, whoever  
20 is doing the adjusting for you, create their own  
21 estimate, report to you and then discuss with the  
22 contractor, you know, negotiate with the  
23 contractor on an ultimate agreed upon figure, or  
24 does the adjuster work with that identified  
25 contractor and create an estimate for you?

1 A. Generally the adjuster will meet with the  
2 contractor, what I've seen before is walk through  
3 the building and get a consensus on scope, then  
4 complete his or her numbers and then speak with  
5 the contractor to see if an agreed figure can be  
6 reached. This may occur even before he's  
7 completed his first report and payment  
8 recommendations, or it could occur afterwards.  
9 It depends.

10 Q. But you don't require them to provide their own  
11 estimate and then compare it?

12 A. We do have the adjuster complete an estimate  
13 either way, if that's what you're referring to.  
14 Our adjuster will always complete an estimate.

15 Q. Sure.

16 A. So I guess I don't understand your question.

17 Q. You don't require your adjusters to do it  
18 independently of the identified contractor?

19 A. They are completing an independent estimate, in  
20 terms of they're completing their own estimate  
21 with numbers. Do they try to reach consensus on  
22 some of these items in terms of scope,  
23 absolutely.

24 Q. There is a reference, there's several references  
25 in the file, we don't need to look at particular



1 ones, to the "need" for the Bordens to identify a  
2 contractor. I guess my question is how does that  
3 affect Amica's responsibilities with regard to  
4 the claim?

5 A. It allows us to reach an agreed figure and  
6 therefore a resolution of the claim. The claim  
7 isn't resolved until the contractor has been  
8 chosen and numbers have been given and that  
9 contractor agrees to stand by the work in terms  
10 of the eyes of our policyholder, and once that's  
11 done, then we know we have agreement and the  
12 claim has, in fact, been resolved.

13 Q. But it doesn't change your obligations under the  
14 contract; is that correct?

15 A. In terms of preparing an estimate?

16 Q. Yes.

17 A. No.

18 Q. In terms paying what you owe?

19 A. It does not.

20 Q. Now, on page 459, this is an e-mail from  
21 Mr. Bennett to you, and it states under the  
22 Coverage A section, John, who is Schumann, feels  
23 that he, who is the insured, will not choose  
24 Visions. He is trying to impress on the insureds  
25 for their need to select a contractor. At that

1 month?

2 A. I couldn't even guess.

3 Q. Did you ever conclude, during your handling of  
4 this case, that you were not being kept  
5 up-to-date by Mr. Bennett?

6 A. No.

7 Q. He was keeping you up-to-date as activities  
8 occurred?

9 A. As far as I can tell.

10 Q. You testified before that you found the handling  
11 of the furniture for the alternative living  
12 arrangement to be unusual in this case?

13 A. (The deponent nodded.)

14 Q. Where Amica bought the furniture and it was going  
15 to be sold back to Amica or taken back to Amica  
16 at the end of the Borden's use of it?

17 A. Correct.

18 Q. Had you ever handled a file where that occurred  
19 in the past?

20 A. No.

21 Q. Did you find the Bordens to be unreasonable in  
22 asking for that arrangement rather than renting  
23 furniture?

24 A. We agreed to provide it, so it was -- if it was a  
25 request -- I can understand their concerns, and

1 that's why we agreed to provide it.

2 Q. During the life of this case, and I know that you  
3 reviewed the claim file and you're knowledgeable  
4 about the case, was there anything that Amica did  
5 that they weren't required to do under the  
6 contract?

7 A. We had a previous discussion in terms of paying  
8 the full replacement cost of the contents as  
9 opposed to the actual cash value, certainly one  
10 area that I can think of.

11 Q. You don't know whether Pennsylvania law requires  
12 that?

13 A. I know that there was some information -- I know  
14 that Dave Bennett reported to me that they were.  
15 I'm not so sure that that was accurate.

16 Q. Did you conclude that that might not have been  
17 accurate during the life of this claim or did you  
18 just figure this out later?

19 A. Again, I'm not completely sure.

20 Q. What I'm trying to get is, my question was  
21 whether Amica went beyond its policy obligations  
22 in this case, and you gave me a specific example  
23 and then --

24 MR. GEER: Let me object to the form of  
25 the question. Here's the reason, the use of the

1 Q. But you don't know whether you reached that  
2 conclusion before or after you made the payment?

3 A. Again, this happened a while ago.

4 Q. Sure, I understand. We can look at the claim  
5 file ourselves.

6 A. Sure.

7 Q. I asked you whether you thought the Bordens were  
8 being unreasonable with respect to the purchase  
9 of the furniture, and you gave me an answer. Do  
10 you believe the Bordens were unreasonable with  
11 regard to any other aspect of this claim?

12 A. Not that I can think of.

13 Q. Page 486, this refers to an RCT Evaluation.  
14 What's that?

15 A. That's a replacement cost tool. It's the name of  
16 the software that's used in order to determine  
17 what it would cost to rebuild that same home in  
18 an event of a total loss fire.

19 Q. And that number was \$762,000 something dollars.  
20 Why is that piece of information important to the  
21 handling of the claim?

22 A. It's important for a couple of reasons. It's  
23 important to notify our underwriting counterparts  
24 if the insurance is accurate. It also assists us  
25 in getting an idea when we review the estimate

1 Anthony Parise?

2 A. That's my understanding.

3 Q. And you said that you never spoke with Mr. Parise  
4 during the course of this file; is that right?

5 A. That's my recollection.

6 Q. Had you ever dealt with Giordano and Associates  
7 before?

8 A. Not that I can recall.

9 Q. Had you ever dealt with Mr. Parise before?

10 A. Not that I can recall.

11 Q. I take it that you have examined files where  
12 public adjusters were involved?

13 A. That's correct.

14 Q. Does that change the way in which you handle a  
15 file?

16 A. No, it does not.

17 Q. Does it make it more difficult for to you handle  
18 a file based on your own experience?

19 A. Not necessarily.

20 Q. What do you mean by that? You said not  
21 necessarily. Sometimes it will, sometimes it  
22 won't?

23 A. Just there are good PA's and there are bad PA's  
24 just like there's good attorneys and bad  
25 attorneys. Some add something to the process,

1 some don't.

2 Q. In this case, did you think that Mr. Parise added  
3 something to the process?

4 A. I don't know what was Mr. Parise as opposed to  
5 Dr. and Mrs. Borden, so I'm not privy to their  
6 discussions.

7 Q. I noticed that there is a discussion in Dave  
8 Bennett's memo about whether Mr. Parise was a  
9 public adjuster licensed in Pennsylvania or  
10 whether he was just acting as a consultant. Did  
11 you investigate at all whether Mr. Parise was  
12 licensed in Pennsylvania?

13 A. No, I did not.

14 Q. Did that affect your handling of the case at all  
15 in any way?

16 A. No, it did not.

17 Q. Were you ever provided any information to suggest  
18 that Mr. Parise was not qualified to serve as  
19 either a public adjuster or a consultant to help  
20 the Bordens in this case?

21 A. I can't recall any information to that effect.

22 Q. Nobody told you that he doesn't know what he's  
23 doing or --

24 A. Not that I can recall.

25 Q. You said that you have examined files in which

1 A. I can't think of anything.

2 Q. At the bottom of the next paragraph, it says --  
3 the paragraph that starts with, "Insured has a  
4 brother," do you see that?

5 A. Yes.

6 Q. The last three sentences say, "Schumann feels the  
7 insured will never move into the house. Mrs. has  
8 been traumatized by the event. He feels the  
9 insured will want to cut the best deal possible  
10 and sell the house as is." Does the fact that  
11 Dr. Borden and his family may or may not move  
12 back into the house, does that affect Amica's  
13 obligations under the insurance policy in any  
14 way?

15 A. The only way it would affect it is whether or not  
16 we'd be responsible for providing holdback on an  
17 actual cash value basis.

18 Q. But it would not affect the estimate of the loss  
19 or the amount that you were required to pay under  
20 the loss except for the holdback; is that  
21 correct?

22 A. Correct.

23 Q. And the holdback would apply if they never  
24 rebuilt; is that correct?

25 A. Could you rephrase the question?

1 Dr. Borden for whatever reason is being  
2 unreasonable and not assisting Amica with its  
3 subrogation investigation?

4 A. I'd have to review the file.

5 Q. Paragraph six of your e-mail on AM505 says that  
6 Mr. Bennett should obtain an estimate from  
7 Visions or confirmation in writing that they  
8 agreed to John's scope. Did you ever get that?  
9 Did you ever get an estimate from them?

10 A. I don't remember seeing an estimate from Visions.

11 Q. Did you ever get confirmation in writing that  
12 they agreed to the scope?

13 A. I believe there was something in the file to that  
14 effect.

15 Q. The next sentence says, "Please also obtain more  
16 information on the builder. How large of a  
17 company? Do they normally handle this type and  
18 size of loss? How many years have they been in  
19 business?" What was the purpose of that inquiry?

20 A. I had never heard of Visions before, so I wanted  
21 some additional information regarding that  
22 company.

23 Q. At that point, had you received any questions  
24 about their competence?

25 A. Not that I'm aware of.



1 Q. About whether they were capable of providing a  
2 useful estimate for a loss of that size?

3 A. I'm not aware of any.

4 Q. Would that be something that you would routinely  
5 do if you were unfamiliar with the contractor,  
6 try to obtain more information about them?

7 A. If I'm unfamiliar with them and our policyholder  
8 has not yet chosen a contractor and that is  
9 something that the independent adjuster had  
10 indicated that a contractor agrees to the figure,  
11 then I probably would ask for some additional  
12 information regarding that contractor.

13 Q. What would you do if that information wasn't  
14 forthcoming or if it was inadequate?

15 A. If it was determined that it was inadequate, that  
16 would just be something, again the adjuster  
17 completed his estimate. But it was something I  
18 would file away. If there was, in fact, a  
19 disagreement, it would be something that I would  
20 want to take a closer look at.

21 Q. Then paragraph seven, you say, "Let's talk with  
22 cleaning company regarding insured's concerns."  
23 Now, when you said the cleaning company there,  
24 Lisa, were you referring to the dry cleaner or  
25 the fire restoration contractor who was cleaning

1 clothes did not seem to be clean and that the  
2 family was not satisfied with the cleaning  
3 process. These are three factors she's already  
4 mentioned in her testimony. Okay, so those are  
5 three things that influenced her decision.

6 Q. Were those three things that influenced your  
7 decision?

8 A. Yes.

9 MR. GEER: Were there more things that  
10 you can recall other than those three things?

11 THE DEPONENT: Not at this time.

12 Q. AM505 at the end, the last full paragraph, it  
13 says, "It appears we may be heading towards  
14 appraisal given the outstanding issues with the  
15 contents and PA allegation that Coverage A damage  
16 is double what we estimated. Let's identify what  
17 we need to do to complete our assessment of the  
18 damages."

19 At this time, did you consider or did  
20 you feel that it was clear that this case was  
21 going to go to appraisal or did you think that  
22 there could be things that were done to resolve  
23 the claim short of appraisal?

24 A. We always try to resolve the claims. At that  
25 point in time, there were some concerns and there

1           were some issues that without having a  
2           contractor, some allegations of double the  
3           estimate, some issues in terms of allowing the  
4           contents to be cleaned with comments that  
5           contents would be, you know, would not be  
6           acceptable. Those are some issues that would  
7           raise my concern that we want to make sure we're  
8           doing everything we can to assess the damages.

9       Q. Well, my question was whether you felt that there  
10       was anything that you could do to avoid the case  
11       going to appraisal?

12      A. We always try to work to resolve the claim.

13      Q. At that time, did you think that there was  
14       anything that you could do to avoid appraisal as  
15       of March 7th, 2003?

16      A. In my role as an examiner?

17      Q. Yes.

18      A. No.

19      Q. Okay. So you thought that it was clear that the  
20       case was going to go to appraisal?

21      A. No, that's not what I said.

22      Q. Okay.

23      A. What I said is there were some areas of concern  
24       where we weren't reaching consensus on the claim,  
25       and therefore that it was a possibility that we

1 might be going -- we might need to resolve this  
2 in the appraisal process.

3 Q. Did you make any recommendations at that time to  
4 do anything that you thought might avoid the  
5 appraisal process?

6 A. Our normal adjusting handling.

7 Q. At this time, did you recommend that Amica retain  
8 its own contractor to estimate the damages?

9 A. At this point, I didn't see that we needed to  
10 since we were still waiting to obtain Dr. and  
11 Mrs. Borden's contractor in order to reach an  
12 agreed figure.

13 Q. So the answer is no, that you did not recommend  
14 hiring your own contractor to do an estimate at  
15 that time?

16 A. That's correct.

17 Q. Go to AM508. Now, this is a letter from  
18 Mr. Seifert addressed to John Schumann and copied  
19 to Dr. Borden. Did you ever get this?

20 A. I did.

21 Q. Did you ever get anything else from Visions  
22 Corporation regarding their opinions of the  
23 estimate that had been prepared by Mr. Schumann?

24 A. Not that I can recall.

25 Q. I think I asked you this before, but you don't

1 have any idea what Visions Corporation did in  
2 order to reach this conclusion?

3 A. That's correct.

4 Q. That Mr. Schumann's estimate was adequate?

5 A. That's correct.

6 Q. 517, this is the e-mail from Amy Speaker to Dave  
7 Bennett, and we know from prior documents that  
8 Amy Speaker is the representative of the Dry  
9 Cleaning Network. Were you included on these  
10 e-mails or were you copied them from Dave  
11 Bennett?

12 A. I was not, according to this e-mail, I wasn't in  
13 a to or from, but I did receive a copy of this  
14 e-mail at some point in time when Dave Bennett  
15 forwarded the file information to my attention.

16 Q. She refers to another source, and right in the  
17 middle of that e-mail, The International  
18 Fabricare Institute, it might have additional  
19 data on the carcinogenic effect of dry cleaning  
20 or smoke damage. Did you ever follow up with the  
21 International Fabricare Institute?

22 A. I did not.

23 Q. Did David?

24 A. I do not know.

25 Q. Was there ever an effort made as far as you know

1 to obtain information regarding the carcinogenic  
2 effect of fire or smoke damage to what you  
3 called, I think, what do you call, hard goods,  
4 hard? What was that phrase that you used? You  
5 referred to clothes as soft something.

6 A. You'll have to -- Okay. Hard goods more in the  
7 context of those items that can't go in the  
8 washing machine.

9 Q. Like furniture?

10 A. Exactly.

11 Q. Or building materials?

12 A. Or books, et cetera.

13 Q. Do you know if there was any effort made during  
14 the course of this file to learn more about the  
15 carcinogenic effect of smoke or fire damage to  
16 hard goods like furniture or building materials?

17 A. I don't know.

18 Q. As opposed to soft goods like the dry cleaning of  
19 clothes?

20 A. I do not know.

21 Q. If there was, it would appear in the file, right?

22 A. Correct.

23 Q. AM518, the first paragraph of this letter  
24 indicates that Mr. Bennett was enclosing a check  
25 in the amount of \$295,098.92 representing the

1 Actual Cash Value of the estimate done by  
2 Mr. Schumann; is that correct?

3 A. Yes.

4 Q. Can you take a look at this letter and tell me  
5 whether there's any indication in this letter  
6 that that payment was an initial payment or a  
7 preliminary payment or subject to further  
8 negotiation?

9 A. Could you ask the question again, please?

10 Q. Yes. Take a look at this letter for me and tell  
11 me whether this letter indicates anywhere that  
12 this payment that was being made was preliminary  
13 or subject to further negotiation or anything  
14 other than a final payment.

15 A. I did not see any.

16 Q. Did you get a copy of this letter when it was  
17 sent?

18 A. I don't know when I received a copy, but I did  
19 receive a copy.

20 Q. When you received a copy of this, did you talk to  
21 Mr. Bennett at all about making it clear to the  
22 insured that this was just an initial payment,  
23 that it was subject to further negotiation?

24 A. Not that I can recall.

25 Q. I'm going to 529. Under Service Expectations --

1 A. No.

2 Q. And you don't recall following up in any way on  
3 that?

4 A. Not that I can recall.

5 Q. Under Coverage A, there is information regarding  
6 Visions Corporation. Can you read that, please,  
7 that paragraph starting with, "I spoke with the  
8 owner of Visions."

9 A. You'd like me to read the paragraph to you?

10 Q. Not out loud, no, just to yourself. I just have  
11 a question.

12 A. I misunderstood your question.

13 Q. You'll agree with me that Dave Bennett is telling  
14 you that the owner of Visions Corp. had told him  
15 that they did work for State Farm and for Farmers  
16 Insurance?

17 A. Correct.

18 Q. Is that correct? Did you follow up with anybody  
19 from State Farm or Farmers Insurance to get a  
20 reference for Visions Corporation?

21 A. That wouldn't be my role.

22 Q. Do you know if anybody from Amica did, contacted  
23 State Farm or Farmers to talk to an adjuster who  
24 had worked with this company before?

25 A. I don't know.



1 Q. Is there any indication in the file that that was  
2 ever done?

3 A. Not that I could see.

4 Q. Did you do anything in response to this  
5 information? Did you attempt to get a customer  
6 list or talk to any of the customers of Visions  
7 Corporation about the work that they had done for  
8 them in the past or get a photograph or anything  
9 of houses they had built?

10 A. Again, that wouldn't be my role.

11 Q. So you didn't do anything other than read this  
12 e-mail with respect to that question that you had  
13 posed before about what qualifications Visions  
14 Corporation had?

15 A. I had asked the question, and the questions were  
16 answered.

17 Q. Okay. So if there was any follow-up to be done  
18 with regard to that, that would be Dave Bennett's  
19 job? You said it's not your role?

20 A. Exactly, it's not my role to follow up on  
21 references of a company on a particular claim.

22 Q. But if somebody felt that it was necessary, it  
23 would be Dave Bennett's role to do that?

24 A. Or his delegate.

25 Q. Because you had recommended that that information

1 be obtained --

2 A. Exactly.

3 Q. -- in a prior e-mail?

4 A. Exactly.

5 Q. So this information is obtained and it's e-mailed  
6 to you?

7 A. Correct.

8 Q. If the information was inadequate, for example,  
9 if for whatever reason you deemed it inadequate,  
10 that it didn't provide the information that you  
11 thought it should, that is, Visions Corporation  
12 perhaps said this is the first fire we've ever  
13 worked on, would it be Dave Bennett's role to  
14 follow up on that or yours?

15 A. I would discuss that with Dave, but yes, in terms  
16 of additional research --

17 Q. Yes.

18 A. -- that would be the file handler's  
19 responsibility.

20 Q. But your role as an examiner is to provide some  
21 input, perhaps pose some questions that they may  
22 need to follow up on?

23 A. When necessary.

24 Q. Page 556 is a letter to Mr. Schumann from Anthony  
25 Parise, and then through page 564 is a report